

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re: TESTOSTERONE)	
REPLACEMENT THERAPY)	MDL No. 2545
PRODUCTS LIABILITY LITIGATION)	
)	Master Docket Case No. 1:14-cv-01748
)	
)	Honorable Matthew F. Kennelly
)	
This Document Relates To:)	
<i>Rowley v. AbbVie Inc.</i> ,)	
Case No. 1:15-cv-02760)	

**DEFENDANT ABBVIE’S UNOPPOSED SUPPLEMENTAL MOTION FOR RULING ON
BILL OF COSTS (DKT. 93)**

In response to the Court’s request for supplemental documentation (Dkt. 102), Defendant AbbVie Inc. herein addresses the status of Plaintiff Rowley under the Master Settlement Agreement (“MSA”) and why he is not eligible to participate as a Claimant in the settlement program set forth in the MSA.

The MSA’s definition of “Claimant” expressly excludes any plaintiff who had a judgment entered against him and has no existing right to appeal. *See* MSA Section I.J (“For the avoidance of doubt, Claimants do not include individuals whose AndroGel-related cases have been dismissed with prejudice (and not reinstated by a court of competent jurisdiction) or against whom judgment has been entered with no existing right of appeal.”). There is no dispute that Plaintiff Rowley lost at trial and has no existing right to appeal. Therefore, the parties to the MSA agree that he is excluded from the MSA’s definition of “Claimant” and cannot participate as a Claimant in the settlement program.

As the Court observed, Exhibit A to the MSA lists Plaintiff Rowley as one of thousands

of potential Claimants. But Plaintiff Rowley's inclusion on this list was an administrative error and in any event, is not determinative of whether he is a Claimant. Exhibit A is intended to be a template for the official Claimants List (defined by Section I.I of the MSA) and was created using all active cases that had been filed in the MDL against AbbVie before the MSA was signed. It will be finalized within 90 days after the MSA's execution pursuant to Section IV.D.2 of the MSA, and both parties expect that it will change during this period. Under the plain language of the MSA, Plaintiff Rowley, who lost at trial and has no existing right to appeal, is not eligible to be considered a Claimant under the settlement program set forth in the MSA and should not be included on the final Claimants List (and should not have been included in Exhibit A).

Date: December 19, 2018

Respectfully submitted,

/s/ Andrew J. Rima

Shayna S. Cook

Andrew J. Rima

GOLDMAN ISMAIL TOMASELLI

BRENNAN & BAUM LLP

564 W. Randolph St., Ste. 400

Chicago, IL 60661

Telephone: (312) 681-6000

Facsimile: (312) 881-5191

scook@goldmanismail.com

arima@goldmanismail.com

***Counsel for AbbVie Inc. and Abbott
Laboratories***

CERTIFICATE OF SERVICE

I hereby certify that on December 19, 2018, I electronically filed the foregoing document to the Clerk of the United States District Court using the CM/ECF system for filing and service to all parties/counsel registered to received copies in this case.

/s/ Andrew J. Rima